

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HANNA BOCKER, SARAH BOCKER and)	
BARBARA BOCKER as Administrator of)	
the Estate of GERARD BOCKER and)	
BARBARA BOCKER, Individually,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 21-1174 (MN) (CJB)
)	
HARTZELL ENGINE TECHNOLOGIES,)	
CONTINENTAL AEROSPACE)	
TECHNOLOGIES, INC. f/k/a)	
CONTINENTAL MOTORS, INC.,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

At Wilmington, this 11th day of July 2022:


WHEREAS, on June 23, 2022, Magistrate Judge Burke issued an Oral Report and Recommendation (“the Report”) (D.I. 46) in this action recommending that the Court grant Continental Aerospace Technologies, Inc. f/k/a Continental Motors, Inc.’s Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted and/or for a Stay of Proceedings (D.I. 13)¹; and

¹ In its motion, Continental moves to dismiss Plaintiffs’ Amended Complaint and/or to stay the litigation pending the outcome of related litigation in the Supreme Court of New York, Dutchess County. (D.I. 13, D.I. 13-1 at 11-16). In Plaintiffs’ answering brief, Plaintiffs agree that this action should be stayed. (D.I. 17 at 6-7). Defendant Hartzell Engine Technologies LLC, however, opposes the stay. (D.I. 19). The Report grants the motion to stay with respect to Continental (other than Plaintiffs ability to file a further amended complaint against Continental and Continental’s ability to challenge such a complaint) and, for the reasons stated therein, denies the stay with respect to Hartzell. (D.I. 46).

WHEREAS, no party filed objections to the Report pursuant to Rule 72(b)(2) of the Federal Rules of Civil Procedure in the prescribed period, and the Court finding no clear error on the face of the record.

THEREFORE, IT IS HEREBY ORDERED, that the Report and Recommendation (D.I. 46) is ADOPTED. Continental Aerospace Technologies, Inc. f/k/a Continental Motors, Inc.'s Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted and/or for a Stay of Proceedings (D.I. 13) is GRANTED. Counts I through VI of Plaintiffs' First Amended Complaint (D.I. 9) are DISMISSED WITHOUT PREJUDICE. Plaintiffs are given leave to file a further amended complaint no later than July 25, 2022. Failure to do so will result in Continental Aerospace Technologies, Inc. f/k/a Continental Motors, Inc. being dismissed from this action. Until there are viable claims against Continental, the case is stayed as to Continental.²

IT IS FURTHER ORDERED that, in the meantime, this case shall proceed against Defendant Hartzell Engine Technologies LLC.


The Honorable Maryellen Noreika
United States District Court Judge

² At such time, either party may request that the Court lift the stay.